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June 18, 2014

**VIA ECF/ ELECTRONIC MAIL TO
bernstein.chambers@nysb.uscourts.gov**

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 723
New York, New York 10004-1408

*Re: Securities Investor Protection Corporation v. Bernard L. Madoff Investment
Securities LLC, 08-1789 (SMB) (Substantively Consolidated); Picard v.
JPMorgan Chase & Co., 10-4932 (SMB)*

Dear Judge Bernstein:

We are counsel to Irving H. Picard, trustee (the “Trustee”) for the substantively consolidated liquidation proceedings of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the estate of Bernard L. Madoff under the Securities Investor Protection Act, 15 U.S.C. § 78aaa *et seq.*

As the Court is aware, SPV Optimal SUS Ltd., as successor in interest to Optimal Strategic U.S. Equity Ltd., and Solus Recovery Fund, LP, as successor in interest to Optimal Arbitrage, Ltd. (collectively, the “Optimal Parties”), claim that the terms of the Trustee’s settlement with JPMorgan Chase & Co. trigger the “Equal Treatment” clause set forth in paragraph 13 of the Optimal Settlement Agreement, entitling the Optimal Parties to a partial refund from the BLMIS estate. Further to the prior letter to the Court regarding this dispute, ECF No. 57, we write to inform the Court of the status of the matter.

Counsel for the parties have exchanged documents and witness statements, and have deposed Messrs. Richard Levin and Marc Hirschfield, counsel to the Optimal Parties and the Trustee, respectively, during the settlement negotiations. The parties have

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reached a briefing schedule on consent and propose filing simultaneous opening and reply briefs on June 27, 2014 and July 16, 2014.

When raised before the Court at the hearing on February 4, 2014, the Court requested an evidentiary hearing to resolve this dispute. The parties propose scheduling such hearing on any date between July 29 and August 6, 2014, with the exception of August 1. The parties anticipate that the hearing will take no more than one half day.

We will await further direction as to how the Court wishes to proceed and are available to respond to any questions regarding the foregoing.

Respectfully submitted,

/s/ David J. Sheehan

David J. Sheehan

cc: Richard Levin
Gary Svirsky